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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,453	11/14/2003	John Richard Myers	1031-15	9375
25903	7590	09/07/2005	EXAMINER	
JACKIE JAY SCHWARTZ 1350 Broadway Suite 1510 NEW YORK, NY 10018			HOGE, GARY CHAPMAN	
		ART UNIT		PAPER NUMBER
		3611		

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/714,453	MYERS ET AL.	
	Examiner	Art Unit	
	Gary C. Hoge	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/4/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaffer (4,949,851).

See Figs. 1-4. Shaffer discloses a collapsible display, the display comprising a first portion **14** having a folded condition (Fig. 1) and an unfolded condition (Fig. 4); a second portion **18**, the top section of which constitutes a display area; and at least one product supporting portion **20** pivotably connected between the first and second portions; wherein the second portion **18** is moveable relative to the first portion **14** between a first position (Fig. 1), in which the product supporting portion **20** is folded flat against the first portion **14** to allow folding of the first portion to the folded condition thereof, and a second position (Fig. 4), in which the product supporting portion **20** is adapted to support at least one product to be displayed and to retain the first portion **14** in the unfolded condition thereof, and all of the second portion **18** protrudes from the first portion.

Regarding claim 2, see Fig. 1.

Regarding claim 3, the second portion **18** is attached to the first portion **14** via product supporting portions **20** at locations remote from the top, display area, of second portion **18**.

Regarding claims 4, 5 and 12, note tabs **22** and slots **24**.

Regarding claim 6, slots **24** are integral with the first portion.

Regarding claim 8, slot **24** is an aperture that is engaged by a user to enable folding of the product supporting portion **20** against the first portion **14** by first removing tab **22** from the slot **24**.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer (4,949,851) in view of Smith (3,987,737).

Shaffer discloses the invention substantially as claimed, as set forth above. Such devices are typically constructed of cardboard, or like material, but Shaffer does not disclose a specific material for constructing the device. Therefore, it is not known whether the material around slot **24** is flexible. However, Smith teaches that it was known in the art to make a collapsible display

stand out of cardboard. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the collapsible display stand disclosed by Shaffer out of cardboard, as taught by Smith, in order to make a light, easy-to-handle structure. When constructed from cardboard, it is clear that the material around the slot 24, which is a retaining member, is flexible, and is therefor "adapted to be displaced out of the plane" of the material adjacent thereto.

6. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer (4,949,851) in view of Podergois (5,632,390).

Shaffer discloses the invention substantially as claimed, as set forth above. However, Shaffer does not disclose a separate display member mounted to the first portion. Podergois teaches that it was known in the art to provide a display stand with a header 19 spanning side supports and displaying graphic information. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the display stand disclosed by Shaffer with a header, as taught by Podergois, in order to display graphic information. The header would span the space between first portions 14.

Regarding claim 11, the first portions 14 retain the display member in position, and these portions are foldable.

### *Conclusion*

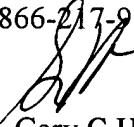
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge  
Primary Examiner  
Art Unit 3611

gch